IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

Crl.MC.No. 4082 of 2006()

CC.1310/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT -I, ALAPPUZHA

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PETITIONER: 1ST ACCUSED

SAIDU MUHAMMED, AGED 38 YEARS,
S/O. SAIDU AHAMMED, SAIDU MANZIL,
ARAYANPARAMBU, ALISSERY WARD, ALAPPUZHA.

BY ADV. SRI.E.RAFEEK
SRI.M.P.MADHAVANKUTTY
SRI.GOKUL DAS V.V.H.

RESPONDENTS:

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1. NIMMI BANU, AGED 23 YEARS,
D/O. ABDUL KAREEM, KULIRMA,
PILASSERRYPARAMBU, PALATH P.O., KOZHIKODE.

2. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SMT.HUMERA MOHAMED ALI
R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 4082 of 2006

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Dated this the 8th day of January, 2007

O R D E R

The petitioner is the first accused in a prosecution under Section 406 and 498A r/w. 34 I.P.C. The co-accused, his relatives, have already been tried, found not guilty and acquitted. As the petitioner was not available for trial, the case against him has been split up and is pending as C.C.No. 1310 of 2004 before the J.F.C.M. Court - I, Alleppey.

2. The petitioner has come to this Court along with the first respondent/defacto complainant to report to the court that the matter has been harmoniously settled. In view of the harmonious settlement of the matrimonial controversies, the petitioner/A1 and the first respondent/defacto complainant appeal to the court that the proceedings against the petitioner may be quashed invoking the powers under Section 482 Cr.P.C.

3. The offence under Section 498A I.P.C. is not compoundable. But it is pointed out that in the wake of the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386), the

proceedings can be quashed, in the interests of justice. The prosecution has now lost its meaning, relevance and significance, it is urged. I am satisfied in the facts and circumstances that this is a fit case where such powers under Section 482 Cr.P.C. can be invoked in the interests of justice as requested by the petitioner and the defacto complainant, notwithstanding the fact that the offence alleged is not compoundable. The first respondent has filed an affidavit also, it is submitted. Copy of that affidavit is placed before me for my perusal.

5. This Crl.M.C. is hence allowed. C.C.No.1310 of 2004 pending before the J.F.C.M. Court -I, Alleppey is hereby quashed. Needless to say, proceedings, if any, pending under Section 446 Cr.P.C. must be disposed of in accordance with law.

(R. BASANT)
Judge

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